

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed October 7, 2008. At the time of the Office Action, Claims 11-14 were pending in this Application. Claims 11-14 were rejected. Claims 6-9 have been re-numbered to 11-14 to reflect the correct numbering sequence. Claims 1-10 were previously cancelled without prejudice or disclaimer. Applicants respectfully request reconsideration and favorable action in this case.

Claim Objections

Applicants have corrected the numbering sequence of the pending claims. Claims 1-10 are now cancelled and claims 11-14 (previously claims 6-9) are pending and stand rejected in the Office Action mailed October 7, 2008.

Rejections under 35 U.S.C. § 102

Claims 11-14 were rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,134,336 issued to Joel Anthony Clark ("*Anthony*"). Applicants respectfully traverse and submit the cited art does not teach all of the elements of the claimed embodiment of the invention.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, "the identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Applicant respectfully submits that the cited art as anticipated by the Examiner cannot anticipate the rejected Claims, because the cited art does not show all the elements of the present Claims.

The Examiner considers that *Clark* discloses all limitations of all claims. Applicants respectfully disagree, because the felt 412 in *Clark* is not an acoustical blocking element, the felt 412 does not form an acoustic seal, and the felt 412 is not between the opening structure 208, 210 and the rear wall 113.

The subject matter of claim 11 of the present invention differs from the device disclosed by *Clark* in, at least, that an acoustical blocking element is located over the opening structure, wherein the acoustical blocking element forms an acoustic seal between the opening structure and the rear wall. This limitation and its technical effect are further explained in the specification, paragraphs [0025]-[0026].

The device disclosed by *Clark* has a rear wall 113 with passages 506 and 508 having openings 208 and 210, and 426 and 428, respectively. *Clark*, column 4, lines 38-40 and Figure 5. The openings 208 and 210 correspond, according to the Examiner, to the opening structure of claim 11 of the present invention. Office action, page 3, first paragraph. These openings are covered with a felt 412. *Clark*, column 5, lines 8-10. The sound pressure waves from the rear of diaphragm 402 travel through the felt 412 and through the plurality of openings 426 and 428. *Clark*, column 6, lines 26-29. The felt 412 does not technically function as an acoustical blocking element and therefore the felt 412 does not form an acoustic seal between the opening structure and the rear wall as required by claim 11 of the present invention. Instead the sound pressure waves travel through the felt 412. Additionally, the felt 412 is not between the opening structure and the rear wall as required by claim 11.

Since *Clark* fails to disclose that an acoustical blocking element, located over the opening structure, wherein the acoustical blocking element forms an acoustic seal between the opening structure and the rear wall, it is respectfully requested that the rejection under 35 U.S.C. §102 is withdrawn. Applicants respectfully submit that the dependent Claims are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §102, if necessary.

CONCLUSION

Applicants have made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

Applicants enclose a Petition for Extension of Time for one month and authorize the Commissioner to charge the amount of \$130.00 to Deposit Account No. 50-2148 of Baker Botts L.L.P. Applicant believes no additional fees are due, however the Commissioner is hereby authorized to charge any additional fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P in order to effectuate this filing.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2545.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorney for Applicants

A handwritten signature in black ink, appearing to read 'A. Grubert', with a stylized flourish at the end.

Andreas Grubert
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Date: January 10, 2009

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